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July 23, 1992

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JUL 23 1992

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: RM No. 8016
Amendment of Section 76.51 of the Commis-
sion's Rules to Include Rome, Georgia in the
Market Currently Designated as the "Atlanta,
Georgia" Television Market

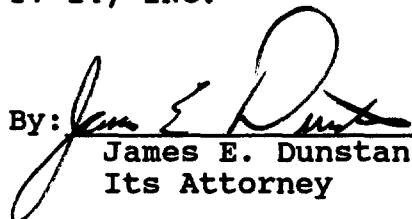
Dear Ms. Searcy:

Submitted on behalf of TV 14, INC., are an original
and four (4) copies of their "Comments," in the above-
referenced proceeding.

If there are any questions concerning this matter,
please communicate directly with this office.

Respectfully submitted,

TV 14, INC.

By: 
James E. Dunstan
Its Attorney

JED/cp

Enclosures

cc: Roy J. Stewart, Chief
Mass Media Bureau

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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUL 23 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 76.51) RM No. 8016
of the Commission's Rules to)
Include Rome, Georgia in the)
Market Currently Designated)
as the "Atlanta, Georgia")
Television Market)

To: Roy J. Stewart, Chief
Mass Media Bureau

COMMENTS OF TV 14, INC.

TV 14, Inc. ("TV 14"), licensee of television station WTLK, Channel 14, Rome, Georgia, through undersigned counsel, hereby files its Comments in support of the above-referenced rule making to amend Section 76.51 of the FCC's rules, 47 C.F.R. § 76.51, to change the designation of "Atlanta, Georgia" to "Atlanta-Rome, Georgia." In support of these Comments, TV 14 submits:

1. On June 3, 1992, TV 14 filed its Petition for Rule Making. Therein TV 14 fully explained the regulatory abyss in which it finds itself because of the evolution of cable regulation before both the FCC and the Copyright Office, which has existed for over eighteen months.

2. Everyone agrees that WTLK is entitled to relief. The FCC has already recognized that WTLK is "unavoidably competitive" in the Atlanta market. TV 14, Inc., 6 FCC Rcd. 7234 (1991). TV 14 has demonstrated in its prior Waiver

Request, partially granted in TV 14, Inc. and the instant Petition that it has met the test for market re-hyphenation enunciated by the FCC in Television Muscle Shoals, 48 RR 2d 1191 (1980), recon. denied, 87 FCC 2d 507 (1981); Major Television Markets (Orlando-Daytona Beach-Melbourne-Cocoa), 57 RR 2d 685 (1985); and Major Television Markets (Fresno-Visalia, California), 57 RR 2d 1122 (1985).^{1/}

3. The Copyright Office has concluded that "economic realities indicate that WTLK is a true competitor in the marketplace, and deserves to be considered on an equal footing with other stations currently operating in the hyphenated market." Copyright Office letter of May 15, 1992, p. 2, appended to TV 14's Petition.

4. All that is left now is for the FCC to take up its jurisdictional mantle and formally re-hyphenate the market. With this action, the FCC will cure a major market

^{1/} Some questions have been raised informally concerning the impact re-hyphenating the market would have on the Chattanooga, Tennessee market. The answer is very little. The ratings services already define WTLK's market as the "Atlanta(Rome)" market, and defines the ADI by viewing patterns on a county by county basis. Changing it to the "Atlanta-Rome" market after Section 76.51 is amended will have no effect on the ADI. Further, Chattanooga is 103 miles from Atlanta and 55 miles from Rome. Although there will be some minor overlap of the 35 mile zones of Rome and Chattanooga, the overlap area will be in relatively sparsely populated regions of Northwest Georgia, mainly in counties which are already part of the Atlanta ADI.

dysfunction. More importantly, amending Section 76.51 will serve the public interest, by allowing the 60 percent of television households in Atlanta which subscribe to cable to have access to WTLK -- access which is denied because cable systems refuse to carry WTLK because the FCC has not clearly ruled that WTLK is local in Atlanta. Amending Section 76.51 will give over 500,000 cable households access to the diverse, local, minority-oriented programming of WTLK.^{2/}

5. Finally, TV 14 cannot overemphasize the need for immediate action from the FCC. TV 14 has sought the same

^{2/} The House Commerce Committee has recently concluded that television stations which are not carried on cable "effectively cease to exist." H.Rep. 102-628, p. 54 (June 29, 1992), accompanying H.R. 4850, the "Cable Television Consumer Protection and Competition Act of 1992." Use of an A/B switch does not solve this problem.

All evidence indicates that, once a television set is connected to a cable system, consumers will not watch signals available only over-the-air. Cable systems for many years promoted their service as a means of getting rid of unsightly or expensive antennas. For many television households, especially those in apartment buildings, condominiums, or planned developments, the use of outside antennas is either impractical or banned outright by local ordinances or lease provisions, leaving cable as the only means of obtaining a quality television signal.

Id. By amending Section 76.51, the Commission will remove any remaining impediments to cable systems carrying WTLK, and thus allow those 500,000 subscribers access to WTLK's programming.

basic relief from the Commission for over eighteen months. The passage of time has not made the situation any better for WTLK, but rather the reverse. Advertisers in Atlanta simply will not purchase time on the station if they can't see it on cable. Without these advertising revenues, the station cannot continue to produce the local, public affairs programming which is so needed in the market.

6. WTLK continues to struggle in the untenable situation of having to compete directly against the other Atlanta stations without enjoying the benefits of being an Atlanta station (e.g. local status for cable carriage). The public interest is not served if the overshadowed nature of WTLK mandates that WTLK must fail.

WHEREFORE, the above-premises considered, TV 14 respectfully requests that the Commission amend Section 76.51 of its Rules to designate the Atlanta market as "Atlanta-Rome."

Respectfully Submitted,

TV 14, INC.

by:


James E. Dunstan

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July 23, 1992